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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,041	12/01/2003	Martin Leiendecker	A 91874	1537
7590	01/27/2006		EXAMINER	
Walter Ottesen Patent Attorney P.O. Box 4026 Gaithersburg, MD 20885-4026			CADUGAN, ERICA E	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/724,041

Applicant(s)

LEIENDECKER, MARTIN

Examiner

Erica E. Cadugan

Art Unit

3722

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☒ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

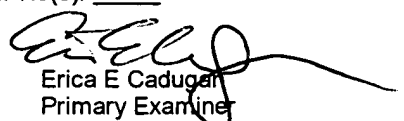
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_  
Claim(s) objected to: \_\_\_\_\_  
Claim(s) rejected: 1-11.  
Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_

  
Erica E. Cadugan  
Primary Examiner  
Art Unit: 3722

Continuation of 3. NOTE: In each of independent claims 1 and 11, the new limitation "said driveable cutting tool being driveable in rotation and said drive axis being the center of rotation of said cutting tool" is a limitation that would require at least further consideration and that would possibly require further search. Additionally, the broadening amendment to delete the term "radially" from the independent claims is a change that would create a new issue that would require at least further consideration and which would possibly require further search.

Additionally, it appears that the new limitation in each of claims 1 and 11 would raise the issue of new matter since it does not appear that the specification as originally filed supports that the "drive axis" that lies "essentially orthogonal" to a "rotational axis about which said tool holder can be rotated" is "the center of rotation of said cutting tool". See Figure 4, for example, noting that the axis 19 would appear to be shown perpendicularly to the axis 19 as shown in Figure 3. That being said, also note that it would appear that the axis 19 as shown in Figure 4 must be parallel to the spindle axis 11 as such would be viewed in Figure 4. Further, note that the "axis" 13 as viewed in Figure 3 can be considered the (at least previously) claimed "drive axis" that lies essentially orthogonally to the claimed "rotational axis" 11. The "drive" axis 13 is not disclosed as a "center of rotation" of the cutting tool, and it is not inherently clear from the disclosure as originally filed, via the conflictingly-shown directions of axis 19 in Figures 3 and 4 that the axis 19 is "essentially orthogonal" to the "rotational axis" 11, and thus the specification as originally filed does not appear to support that the limitation "said drive axis being the center of rotation of said cutting tool" as now set forth in the proposed change to claims 1 and 11.

Continuation of 5. Applicant's reply has overcome the following rejection(s): Applicant's proposed amendment, due to the deletion of the term "radially" in claims 1 and 11, would serve to overcome the previous rejection of the claims based on 35 USC 112, second paragraph.